

# **PROPOSED AMENDMENT TO THE ANIMAL CONTROL ORDINANCE**

Shall an ordinance entitled "November, 2015 Amendment to the Animal Control Ordinance" be enacted? (A true copy of which is on file in the Town Clerk's Office and is incorporated by reference.)

[Note of Explanation: This amendment redefines Restricted Area into Nesting Area and Limited Dog Access Area and reorganizes Section D(2).]

**Amend the Animal Control Ordinance as follows:**

## **ANIMAL CONTROL ORDINANCE**

### **Section A: Purpose**

The purpose of this ordinance is to require that all animals in the Town of Kennebunkport be kept under the control of their owner or keeper at all times so that they will not injure persons or other animals, damage property or create a public safety threat.

The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody or possession of that animal.

### **Section B: Definitions**

1. **ANIMAL:** Every living, sentient creature not a human being.
2. **ANIMAL CONTROL:** Control of dogs, cats and domesticated or undomesticated animals.
3. **ANIMAL CONTROL OFFICER:** Any person appointed by the Town of Kennebunkport to enforce animal control laws.
4. **ANIMAL SHELTER:** A facility that includes a physical structure that provides temporary shelter to stray, abandoned, abused or owner-surrendered animals.
5. **AT LARGE:** Off the premises of the owner, unleashed and not under the Voice and Sight control of a responsible party.

6. BEACH: The beaches within the Town of Kennebunkport commonly referred to as Goose Rocks Beach, Colony Beach, and Cleaves Cove.
7. DOG: Any of large and varied groups of domesticated animals in the canine family.
8. LEASH: Hand held device, 15 feet or less in length, which can be used to restrain a dog.
9. LIMITED DOG ACCESS AREA: Any beach area on Goose Rocks Beach, Colony Beach or Cleaves Cove, that is designated by the Board of Selectmen or designee for special protection of piping plovers or other endangered species based upon scientific and historical data, where dogs may be either prohibited entirely or permitted only if on-leash based on time of day and/or date, as provided herein or pursuant to rules adopted hereunder. This designation may be seasonal or permanent.
10. NESTING AREA: Any beach area on Goose Rocks Beach, Colony Beach or Cleaves Cove, that has been roped off, fenced off or otherwise demarcated or posted by governmental officials or their agents to protect the nesting site of a piping plover or of any other endangered species protected under federal or state law.
- 9- 11. OWNER: Owner or any person or persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.
- 10- 12. RESPONSIBLE PARTY: Any person who has custody, possession or control of a dog, whether or not that person is the Owner.
- 11- ~~RESTRICTED AREAS: Any beach area on Goose Rocks Beach, Colony Beach or Cleaves Cove, that is designated for special protection for piping plovers or other endangered species based upon scientific and historical data.~~
- 12- 13. VOICE AND SIGHT CONTROL: "Voice Control" means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party's verbal command. "Sight Control" means that the dog is always within sight of the responsible party and the dog is capable of complying with Voice Control. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and is in violation of this Ordinance unless such person has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog. A dog barking repeatedly is not considered under Voice and Sight Control.

## **Section C: Requirements for Control of Animals**

1. **AT LARGE DOGS:** It is unlawful for any dog, licensed or unlicensed, to be at large within the Town of Kennebunkport, except when used for hunting. Dogs shall be considered at large unless leashed or under Voice and Sight Control of a responsible party. A responsible party shall maintain control of their dog(s) at all times, not allow the dog(s) to charge, chase or display aggression towards any person, or disturb or harass any person, other dogs or wildlife. A responsible party shall have a leash in his/her possession for any dog that is off leash. The owner of any dog found at large or otherwise in violation of this section will be subject to the civil penalties provided in the Ordinance and/or Maine State Law, Title 7, Section 3911.
2. **DOGS LEASHED:** A leash shall be used to restrain a dog: (a) if the dog fails to respond to voice commands when off the premises of the owner, (b) when a dog is walking with a responsible party on roads and sidewalks in the Town of Kennebunkport, or (c) if the responsible party is ordered by the Animal Control Officer or a law enforcement officer to leash the dog. The owner of any dog found in violation of this section will be subject to the civil penalties provided in the Ordinance.
3. **IMPOUNDMENT OR RETURN OF AT LARGE DOGS:** All dogs found at large in violation of this Ordinance or Title 7, M.R.S.A., Section 3911 may be impounded at the animal shelter or returned to the owner, at the discretion of the Animal Control Officer or law enforcement officer.
4. **LICENSES:** No dog shall be kept within the limits of the Town of Kennebunkport unless such dog is licensed by the owner in accordance with Maine State Law.
5. **RABIES TAGS:** Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to the dog's collar and must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner.
6. **CONTROL OF ANIMAL WASTE:** An owner or responsible party must remove and dispose of any feces left by his/her animal on any sidewalk, street, beach, public property or private property (other than the property of the owner of the animal or of a person who has consented to the presence of the animal on his or her property) Deposit of feces left off property of the owner shall be placed in an appropriate litter receptacle.

## **Section D: Specific Requirements for Dogs on Beaches**

1. **AUTHORITY:** The Board of Selectmen shall have the authority to adopt specific rules governing dogs on Goose Rocks Beach, Colony Beach and Cleaves Cove that are more restrictive than the provisions of Section C or Section D(2) of this Ordinance. For example, the Board of Selectmen or designee may designate Limited Dog Access Restricted Areas on these beaches for special protection for piping plovers or other endangered species based upon scientific and historical data consistent with state and federal laws governing endangered species. For specific rules governing dogs on Goose Rocks Beach, the Board of Selectmen shall have the authority to adopt such rules after consultation with the Goose Rocks Beach Advisory Committee, in accordance with Section IV.D of the Beach Use Ordinance for Goose Rocks Beach.
2. **DOG RESTRICTIONS RULES ON BEACHES:** The following restrictions rules, ~~adopted in accordance with Section D.1 above,~~ apply to dogs on the following beaches located within the Town of Kennebunkport: Goose Rocks Beach, Colony Beach and Cleaves Cove.
  - a. An owner or responsible party shall always be required to leash their dog on any of the applicable beaches referenced above when directed to do so by a law enforcement officer or Animal Control officer.
  - b. Pet waste must be picked up immediately and disposed of properly in an appropriate litter receptacle.
  - ~~c. Dogs must be kept at least 200 feet from any designated Restricted Area.~~
  - ~~d. Restricted Areas include the following:~~
    - ~~i. Any beach area on Goose Rocks Beach, Colony Beach or Cleaves Cove that has been roped off, fenced off or otherwise demarcated or posted by governmental officials or their agents to protect the nesting site of a piping plover or of any other endangered species protected under federal or state law.~~
  - c. The **West End Plover Protection Area** ~~at is a Restricted Area on~~ Goose Rocks Beach ("WEPPA"), which ~~that~~ begins at Norwood Avenue and continues westerly to the Batson River, is designated a Limited Dog Access Area.
  - d. From April 1 to September 30, in the Limited Dog Access Areas, dogs must be on leash at all times, except that from June 15 to September 30 between 8:30 am and 6:00 pm, no dogs are permitted on the beach (see Section 2(i) below).

- e. From April 1 to September 30, no dog shall approach or remain within 200 feet of any clearly marked Nesting Area, except that lawns or upland properties within 200 feet of a Nesting Area are excluded from this requirement.
- f. From April 1 to September 30, dog owners who live within 200 feet of a Nesting Area must leash their dog when attempting to access the beach and stay as far away as possible from the Nesting Area.
- g. From April 1 to June 14th, dogs must be on leash on the beach at all times other than between 6:00 am and 7:30 am, when they may be off leash if under Voice and Sight Control, except to the extent the restrictions in Sections D(2)(d), (e) or (f) above may require otherwise.
- h. From April 1 June 15 to September 30, if under Voice and Sight Control, dogs may be off leash on the beach between 6:00 am and 7:30 am, except to the extent the rules in Sections D(2)(a), (e) and (d) above may require otherwise. From April 1 to September 30, dogs must be on leash between 7:30 am and 8:30 am, and after 6:00 pm except to the extent the restrictions in Sections D(2)(d), (e) or (f) above may require otherwise.
- i. From June 15 to September 30, dogs are not permitted on the beach between 8:30 am to and 6:00 pm. This provision does not apply to use of a service dog by a person with a disability when the dog is required to perform work or tasks directly related to the person's disability. Between 6:00 pm and 6:00 am and between 7:30 am and 8:30 am, dogs are permitted on the beach if on leash, except to the extent the restriction in Section D(2)(e) or (f) above may require otherwise. Between 6:00 am and 7:30 am, dogs may be off leash, if under Voice and Sight Control, except to the extent the restrictions in Sections D(2)(d), (e) or (f) may require otherwise.
- j. From October 1 through March 31, if under Voice and Sight Control, dogs may be off leash on the beach, except between for the hours of 12:00 pm and 2:00 pm when they must remain on leash, and except to the extent the rules in Sections D(2)(a), (e) and (d) above may require otherwise.

## **Section E: Rulemaking Authority governing Other Public Resources**

Notwithstanding the general rules found in Section C herein, the Board of Selectmen shall have the authority to adopt specific rules governing dogs on other publicly owned or operated lands located within the Town of Kennebunkport, such as public parks.

## **Section F: Penalties**

1. Any person who violates any provision of this Ordinance shall be subject to civil penalties for each violation, as follows:

First violation: not less than \$50.00 and not more than \$100.00, plus costs and reasonable attorneys' fees.

Second violation: not less than \$100.00 and not more than \$250.00, plus costs and reasonable attorneys' fees.

Third and subsequent violations: not less than \$250.00 and not more than \$500.00, plus costs and reasonable attorneys' fees.

2. Notwithstanding multiple violations of this Ordinance, any person who violates Section C(4) (Licenses), or Section C(5) (Rabies Tags) of this Ordinance shall be subject to a civil penalty of not more than \$100.00 for each offense, consistent with 7 M.R.S.A. §§3918, 3924.
3. All civil penalties collected pursuant to this Ordinance shall be recovered to the use of the Town of Kennebunkport and deposited in the separate account required by 7 M.R.S.A. Section 3945.
4. A person issued a civil violation citation for violating this Ordinance may elect to pay the minimum penalty specified above for each violation alleged in the citation, in lieu of appearing in court to answer the citation. Such payment must be received at the Office of the Town Clerk in the amount specified by the Animal Control Officer by the seventh day prior to the court appearance date specified in the citation. Upon receipt of such payment by the Clerk, the Animal Control Officer or law enforcement officer shall cause the citation to be dismissed. However, the violations alleged in the citation shall be deemed admitted for purposes of assessing any future penalties under this section.
5. Any civil penalty collected for a violation of this Ordinance shall not preclude the Town from imposing or collecting a fine or penalty for a violation of the Barking Dog Ordinance (adopted March 10, 1984).

#### **Section G: Severability Clause**

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.